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SIPDIS

STATE PASS USTR BENNETT HARMAN

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TAGS: [ETRD](#) [KIPR](#) [EFIN](#) [EC](#)

SUBJECT: PHARMACEUTICAL COMPANIES SEEK USG HELP ON GOE
PROPOSAL TO LIMIT PROFITS

1. See action request paragraph 7.

2. Summary. Econ and FCS met November 19 with representatives from Bristol Meyers and Pfizer. The pharmaceutical representatives complained that the GOE is trying to exert further control over drug prices and company profits. This latest initiative by the Ministry of Public Health is the second attempt in the last six months at decreasing drug prices by limiting drug company profits. According to the drug reps, if approved, the regulation would adversely affect international and local drug companies in Ecuador. Emboffs explained that Intellectual Property Rights, particularly concerning pharmaceutical company concerns, have been an important and sensitive part of Andean Free Trade Agreement negotiations. We promised to seek Washington guidance as to how to raise this issue with the GOE. End Summary.

Another Assault on Profits

3. Pharmaceutical representatives explained to econ and commercial section officers on November 19 that the GOE was trying for the second time in the last six months to limit pharmaceutical prices, this time via a Presidential decree. Earlier this year, the GOE considered a draft law that would have reduced the maximum profit allowed drug companies for each individual product or presentation from 20% to 8%. After complaints from the industry and discussions with Emboffs, the GOE backed off from that initiative.

4. The Ministry of Public Health is behind the latest initiative, according to the Bristol Meyers Squibb and Pfizer representatives. Bristol Meyers' lawyer said the decree would redefine and lower the acceptable costs of pharmaceutical companies; thus, "artificially" inflating company profits and forcing them to reduce prices in order to keep under the 20% profit ceiling. Other representatives noted that drug prices had already been frozen by the GOE for the last two years. When questioned, they said the proposed decree would adversely affect both international drug companies and local generic drug producers.

A Topic for the Trade Negotiators

5. Econoffs noted that intellectual property rights (IPR), particularly with respect to pharmaceutical products had been an important and sensitive part of the ongoing Andean Free Trade Agreement negotiations. Given the sensitivity, the Embassy would request instructions from Washington before approaching the GOE about this issue.

Comment and Action Request

6. This latest salvo from the GOE is another attempt to address populist concerns about the price of drugs in Ecuador. The fact that the proposed decree would adversely impact both major pharmaceutical companies and local producers of generic drugs means both will probably lobby against the proposal, making issuance of the decree less likely. Still, any GOE effort to lower drug prices would be viewed favorably by many and the Gutierrez administration could use all the popular support it can get. Thus, populist concerns could win the day.

7. Action Request. Post requests guidance from Washington on what, if any, next steps to take regarding the proposed decree.

KENNEY